

REMARKS

The following remarks are submitted in response to the Office Action. No claims are amended. Claims 1-9 and 11-41 are pending, claim 10 having been canceled by a previous amendment.

Reconsideration of the application is respectfully requested in view of the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicants respectfully note that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicants have broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicants, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Consistent with the points set forth above, Applicants submit that any claim amendments or statements advanced by the Applicants in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

II. PRIOR ART REJECTIONS

The Examiner rejected claims 1-7 and 11-41 under 35 U.S.C. § 103 as being unpatentable over *Nyman et al.* (U.S. Pub. No. 2003/0037033) in view of *Fontana et al.* (U.S. Pub. No. 2003/0120605). Applicants respectfully disagree.

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to provide “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *See MPEP* § 2141.III (citing *KSR*, 550 U.S. at ___, 82 USPQ2d 1385, 1396). Moreover, “rejections on obviousness cannot be sustained by mere conclusory statements.” *See id.*

Claim 1 recites, among other things: “a single keyset profile...having a plurality of encryption keysets, each encryption keyset being used to decrypt encrypted data received from a different access point....” According to the Examiner, *Nyman* “does not explicitly disclose a plurality of encryption keysets.” *See Office Action*, p. 3. The Examiner then alleged, however, that *Fontana* “discloses an analyzer adapted to decrypt said encrypted data received by said at least wireless card by using each of said plurality of encryption keysets in sequence until all of said encrypted data has been decrypted (See page 3, Sections 0036-0037)” and that “it would have been obvious...to combine *Nyman et al.*’s wireless system with *Fontana et al.*’s software prevention method.” *See id.* Applicants respectfully disagree.

Fontana describes a single keyset comprising two keys, one key being bundled with encrypted software 215 and the other key being stored in an external security device 131 connected to a computer system 101. *See e.g., Fontana*, paragraph [0030] and Fig. 1. In contrast, claim 1 recites: “a single keyset profile...having a plurality of encryption keysets.”

Moreover, neither of the keys in the keyset of *Fontana* are “used to decrypt encrypted data received from a different access point,” as claimed. Instead, the keys are “used to generate an encryption key, which is used to protect the software 215 through encryption....” *See id.* In fact, one key in the keyset—a “dynamic key”—is “the underlying primary key assigned to the particular software program 215 to be protected, and typically does not change between copies of the software 215.” Similarly, the other key in the keyset—an initialization vector—“can be assigned by the key authority or by the software developer...[and] can be generated as a checksum of the protected software 215 itself.” Thus, each key is associated with a particular software program to be protected, not with a particular access point in a computer network.

In light of the foregoing discussion, the Examiner has not established that the proposed combination includes each and every limitation even if the references are combined in the purportedly obvious manner. Therefore, the rejection lacks the requisite “rational underpinning to support the legal conclusion of obviousness” and should be withdrawn.

Claims 15 and 25, although of different scope, each recite language similar to that of claim 1 discussed above. In particular, claim 15 recites "...[a] keyset profile having all keysets being used by any of said at least two access points...decrypting said data in said data store using said keyset profile." Claim 25 recites: "a data store that stores the different encryption keysets in a single keyset profile...wherein said keyset profile is used to decrypt all of said captured encrypted data received from said plurality of wireless access points." Accordingly, withdrawal of the rejection of claims 1, 15, and 25, and corresponding dependent claims 2-9, 11-14, 16-24, and 26-41, is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 20th day of March, 2008.

Respectfully submitted,

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